

**NOT FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

**FILED**

**JAN 09 2006**

**CATHY A. CATTERSON, CLERK**  
**U.S. COURT OF APPEALS**

**GENNIFER FLOWERS,**

Plaintiff - Appellant,

v.

**JAMES CARVILLE, GEORGE  
STEPHANOPOULOS, HILLARY  
RODHAM CLINTON,**

Defendants - Appellees.

No. 04-15679

D.C. No. CV-99-1629-PMP

**MEMORANDUM\***

Appeal from the United States District Court  
for the District of Nevada  
Philip M. Pro, Chief District Judge, Presiding

Submitted December 6, 2005\*\*  
San Francisco, California

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

\*\* This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Before: **BRUNETTI** and **KOZINSKI**, Circuit Judges, and **HOGAN**,<sup>\*\*\*</sup>  
District Judge.

Gennifer Flowers appeals from orders granting summary judgment motions filed by Hillary Rodham Clinton, James Carville and George Stephanopoulos.

Clinton initially contends that we lack jurisdiction over Flowers's appeal from the order filed November 24, 2003, because Flowers did not file a timely notice of appeal. Because the district court ordered entry of judgment in favor of Clinton, Flowers v. Carville, 292 F. Supp. 2d 1225, 1234 (D. Nev. 2003), and did not set forth judgment in a separate document, Flowers had 180 days from entry of the order to file the notice of appeal. See Fed. R. App. P. 4(a)(1), 4(a)(7)(A)(ii). Flowers timely filed the notice of appeal on April 6, 2004.

While the fourth amended complaint alleges Clinton engaged in overt acts in furtherance of a civil conspiracy, the district court correctly held that this claim accrued no later than April 1995, by which time Flowers had discovered all necessary facts. Flowers first named Clinton as a defendant on January 20, 2000, after expiration of the four-year limitations period. See Flowers, 292 F. Supp. 2d at 1233-34; see also Siragusa v. Brown, 971 P.2d 801, 806-07 (Nev. 1998) (stating

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<sup>\*\*\*</sup> The Honorable Michael R. Hogan, United States District Judge for the District of Oregon, sitting by designation.

limitations period and rule that conspiracy claim accrues when plaintiff knows all necessary facts). Thus, her claim against Clinton is barred.

Flowers presented insufficient evidence of actual malice to prevent summary judgment in favor of Carville and Stephanopoulos. No reasonable jury could find that either defendant (1) knew that Flowers's audiotapes were not "doctored" or "selectively edited," (2) knew or ignored obvious signs that the news reports regarding the audiotapes were false, or (3) intentionally or recklessly made statements that were materially different from the news reports. See Flowers v. Carville, 310 F.3d 1118, 1131 (9th Cir. 2002). Flowers's failure to present evidence of actual malice is fatal to each claim against Carville and Stephanopoulos.

**AFFIRMED.**